REMARKS

Claims 1-5 and 7-9 are pending in this application. By this Amendment, claim 1 is amended to incorporate claim 6 and claim 6 is canceled. Support for the amendments may also be found in at least paragraph [0049]. Thus, no new matter is added. Applicant respectfully requests reconsideration and prompt allowance of the pending claim at least in light of the following remarks.

Claims 1-9 are rejected under 35 U.S.C. §102(a) as being anticipated by Japanese Patent Application Publication 2004-049838 (Arata). As claim 6 is canceled, Applicant respectfully traverses the rejection of claims 1-5 and 7-9.

In particular, Arata fails to disclose at least the features of "calculating a signal strength obtained as a reciprocal of a coefficient obtained by gain-controlling the detected signals such that amplitude of the detected signals does not exceed an upper limit threshold or is not below a lower limit threshold" and "determining a sleep stage by using the signal strength variance value or a value derived from the signal strength variance value as an indicator value," as recited in claim 1. The Office Action asserts that paragraphs [0032]-[0055] of Arata discloses the feature of "calculating a signal strength obtained as a reciprocal of a coefficient obtained by gain-controlling the detected signals." However, paragraphs [0032]-[0055] do <u>not</u> disclose or suggest the claimed "calculating a signal strength obtained as a reciprocal of a coefficient obtained by gain-controlling the detected signals." In fact, the Office Action does not specifically point out which part(s) of Arata discloses the above clamed feature. Further, Arata does not disclose the feature that "(in the gain control, the gain is set such that) amplitude of the detected signals does not exceed an upper limit threshold or is not below a lower limit threshold," as recited in claim 1. Thus, Arata fails to disclose the feature that "calculating a signal strength obtained as a reciprocal of a coefficient obtained by

gain-controlling the detected signals such that amplitude of the detected signals does not exceed an upper limit threshold or is not below a lower limit threshold," as recited in claim 1.

Further, because Arata fails to disclose above claimed "calculating a signal strength obtained as a reciprocal of a coefficient obtained by gain-controlling the detected signals such that amplitude of the detected signals does not exceed an upper limit threshold or is not below a lower limit threshold," Arata also fails to disclose the feature of "determining a sleep stage by using the signal strength variance value or a value derived from the signal strength variance value as an indicator value," (which are calculated based on the above claimed calculated signal strength) as recited in claim 1. In fact, Arata only discloses a method for determining sleep stages of an examinee by using deviation of either respiratory or heart rate as an indicator value (Abstract and paragraphs [0048]and [0049]).

Thus, claim 1 is patentable over Arata. Further, claims 2-5 and 7-9 are patentable for at least the same reasons, as well as for the additional features they recite. Applicant respectfully requests withdrawal of the rejection.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,

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